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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 171017999-8262-01]

RIN 0648-BH32

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Reef Fish Fishery of the Gulf of Mexico; Modifications to
Greater Amberjack Recreational Fishing Year and Fixed Closed
Season**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement management measures described in a framework action to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as prepared by the Gulf of Mexico Fishery Management Council (Council). This final rule revises the recreational fishing year and modifies the recreational fixed closed season for greater amberjack in the Gulf of Mexico (Gulf) exclusive economic zone (EEZ). The purposes of this final rule and the framework action are to constrain recreational harvest to

assist in ending overfishing, and to rebuild the greater amberjack stock in the Gulf, while achieving optimum yield of the stock in the Gulf.

DATES: This final rule is effective *[insert date 30 calendar days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: Electronic copies of the framework action, which includes an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis may be obtained from the Southeast Regional Office Web Site at http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2017/GAJ_Fishing%20Year/index.html.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, NMFS SERO, telephone: 727-824-5305, email: Kelli.ODonnell@noaa.gov.

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery, which includes greater amberjack, is managed under the FMP. The Council prepared the FMP, and NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Steven Act) through regulations at 50 CFR part 622.

On January 26, 2018, NMFS published a proposed rule for the framework action and requested public comment (83 FR 3670). The proposed rule and the framework action outline the rationale

for the actions contained in this final rule. A summary of the management measures described in the framework action and implemented by this final rule is provided below.

Management Measures Contained in This Final Rule

This final rule revises the recreational fishing year and the recreational fixed closed season for greater amberjack in the Gulf.

Greater Amberjack Recreational Fishing Year

This final rule revises the Gulf greater amberjack recreational fishing year to be August 1 through July 31. The current Gulf recreational fishing year for greater amberjack is January 1 through December 31 and was established in the original FMP (49 FR 39548; October 9, 1984). The change implemented through this final rule allows for greater amberjack recreational harvest to occur later in the year and provides an opportunity to harvest greater amberjack when harvest of many other reef fish species is prohibited due to in-season closures as a result of harvest limits. By starting the fishing year in August, when fishing effort is less, NMFS and the Council expect enough recreational quota remaining to allow for harvest during May of the following calendar year.

Consistent with the change in the fishing year, this final rule revises the years associated with the greater amberjack recreational annual catch limits (ACLs) and quotas. Currently, the recreational ACLs and quotas are defined by the calendar year, which is also the fishing year. With the change to the recreational fishing year, the recreational ACLs and quotas apply across calendar years. Therefore, this final rule assigns the recently implemented 2018 ACL and quota to the remainder of the August 1, 2017, through July 31, 2018, recreational fishing year. The 2019 recreational ACL and quota will correspond to the 2018-2019 recreational fishing year, and the recreational ACL and quota for 2020 and beyond will correspond to all subsequent fishing years.

Greater Amberjack Recreational Fixed Closed Season

NMFS recently published a final rule that changed the greater amberjack recreational closed season from June through July each year to January through June (82 FR 61485; December 28, 2017) to allow the Council time to further modify the closed season to create two separate recreational fishing seasons.

This final rule modifies the recreational fixed closed season for greater amberjack to be from January 1 through April 30, June 1 through July 31, and November 1 through December 31,

each year. This means that recreational harvest would be allowed in May and from August through October each calendar year unless an in-season closure is necessary to constrain harvest to the recreational quota. Because this final rule also changes the recreational fishing year, NMFS expects any in-season quota closure to occur later in the fall or during May of the following year. However, because NMFS expects the recreational fixed closed season to reduce recreational landings NMFS also expects this change to reduce the likelihood of an in-season closure and landings exceeding the recreational ACL. This final rule is also expected to protect greater amberjack during peak spawning months in the majority of the Gulf (March through April), thereby contributing to rebuilding the greater amberjack stock by the end of the designated time period in 2027.

Comments and Responses

NMFS received a total of 46 comments on the proposed rule for the framework action from individual fishers and two for-hire fishing vessel associations. Several commenters supported the proposed measures for Gulf greater amberjack. Other comments stated that changes to fishing regulations cause confusion, and suggested a tag system to measure harvest of greater amberjack, but those assertions were outside the scope

of the proposed rule and therefore are not addressed here,.

Specific comments related to the framework action and the proposed rule are grouped by topic and summarized below, followed by NMFS' respective responses.

Comment 1: Greater amberjack is abundant in the Gulf which suggests the stock is healthy; therefore, the greater amberjack stock is not in need of rebuilding, and these additional management measures are not necessary.

Response: NMFS disagrees that the greater amberjack stock is not in need of rebuilding and that the management measures in this final rule are unnecessary. In 2016, a Southeast Data, Assessment, and Review (SEDAR) stock assessment for greater amberjack was completed (SEDAR 33) and indicated the Gulf greater amberjack stock remained overfished, was undergoing overfishing, and would not be rebuilt by 2019, as was previously estimated. Therefore, the Council established a new rebuilding time period that ends in 2027 and revised the ACLs and quotas. (82 FR 61485; December 28, 2017). The management measures implemented through this final rule are expected to constrain harvest to the new catch levels and protect the stock during springtime spawning activity in March and April. The Council determined, and NMFS agrees, that these management measures

will help meet rebuilding goals for this stock.

Comment 2: The greater amberjack recreational fishing year should not be changed. Changing the fishing year to start on August 1 will cost money and take time to implement without providing any benefit. It will also shift effort in the eastern Gulf to the western Gulf, changing the dynamics of the fishery. This change will eliminate any recreational spring fishery for greater amberjack in the eastern Gulf because there will be enough of the recreational quota remaining after the fall season.

Response: While NMFS agrees that the change in the fishing year may shift fishery dynamics, this change is expected to provide benefits by reducing the overall recreational harvest of greater amberjack, which will reduce the likelihood of an in-season closure, and allow for harvest in May as well as August through October. The first season is limited to 3 months (August, September, and October) and is during a time of historically low fishing effort. Analysis included in the framework action predicted that the new recreational quota should be sufficient to allow for harvest both in the fall and the spring.

In addition, changing the fishing year to begin on August

1 provides access to greater amberjack later in the calendar year, which is a period when the harvest of other targeted species (e.g., red snapper) is typically unavailable in Federal waters. Opening recreational fishing for greater amberjack later in the calendar year is also expected to improve access to this species because weather tends to be more favorable.

Comment 3: The recreational closed season for greater amberjack should not be changed.

Response: NMFS disagrees that the recreational closed season for greater amberjack should not be changed. The current recreational greater amberjack closed season of January 1 through June 30 was intended to be a temporary measure to allow the Council time to consider alternatives that would allow for harvest in both the spring and fall. If the current closed season were left in place, it would not allow for recreational harvest in the spring, which is a time when many recreational anglers have requested that recreational harvest of greater amberjack occur because this is a time when other targeted species, such as red snapper, are usually unavailable for harvest. The Council considered several options for modifying the closed season to allow harvest in the spring and chose May as the open month to avoid harvest during the peak spawning months of March and

April.

Comment 4: A 4-month recreational open season for greater amberjack is too short. Recreational harvest should be allowed year-round or at least also in June and July.

Response: NMFS disagrees. Allowing recreational harvest of greater amberjack during June and July, historically the months of highest recreational fishing effort, or year-round, would likely result in an in-season quota closure, and would increase the likelihood of exceeding the recreational ACL. It would also be inconsistent with the Council's intent to have both fall and spring fishing seasons. Allowing for recreational harvest in May, August, September, and October is expected to increase the opportunity for recreational harvest while still protecting the stock as it rebuilds.

Comment 5: Modifying the recreational bag limits, implementing seasonal split quotas, and modifying the commercial trip limits would be more effective in managing the greater amberjack stock in the Gulf than changing the fishing year and closed season.

Response: The Council did not consider modifying recreational bag limits or establishing recreational seasonal quotas for greater amberjack in the Gulf in this framework

action. However, in response to public comments at its October 2017 meeting, the Council began development of another framework action in which it will consider recreational bag limit options and split quotas as well as commercial vessel limits for greater amberjack. NMFS expects the Council to review a draft options paper for this framework in 2018.

Classification

The Regional Administrator for the NMFS Southeast Region has determined that this final rule is consistent with the framework action, the FMP, the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) during the proposed rule stage that this rule, if adopted, would not have a significant

economic impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and is not repeated here. No comments from the public or the SBA's Chief Counsel for Advocacy were received regarding the certification, and NMFS has not received any new information that would affect its determination. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Greater amberjack, Gulf,
Recreational, Reef fish.

Dated: March 23, 2018.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.7, add paragraph (h) to read as follows:

§ 622.7 Fishing years.

* * * * *

(h) *Gulf of Mexico greater amberjack recreational sector*—August 1 through July 31. (Note: The fishing year for the commercial sector for greater amberjack is January 1 through December 31).

3. In § 622.34, revise paragraph (c) to read as follows:

§ 622.34 Seasonal and area closures designed to protect Gulf reef fish.

* * * * *

(c) *Seasonal closure of the recreational sector for greater amberjack.* The recreational sector for greater amberjack in or from the Gulf EEZ is closed from January 1 through April 30, June 1 through July 31, and November 1 through

December 31, each year. During the closure, the bag and possession limit for greater amberjack in or from the Gulf EEZ is zero.

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4. In § 622.39, revise paragraph (a)(2)(ii) to read as follows:

§ 622.39 Quotas.

* * * * *

(a) * * *

(2) * * *

(ii) *Recreational quota for greater amberjack.* (A) For the 2017-2018 fishing year—716,173 lb (324,851 kg).

(B) For the 2018-2019 fishing year—902,185 lb (409,224 kg).

(C) For the 2019-2020 fishing year and subsequent fishing years—1,086,985 lb (493,048 kg).

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5. In § 622.41, revise paragraph (a)(2)(iii) to read as follows:

§ 622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

(a) * * *

(2) * * *

(iii) The applicable recreational ACL for greater amberjack, in round weight, is 862,860 lb (391,387 kg) for the 2017-2018 fishing year, 1,086,970 lb (493,041 kg) for the 2018-2019 fishing year, and 1,309,620 lb (594,034 kg) for 2019-2020 fishing year and subsequent fishing years.

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